

Report

Date	April 17, 2024	File: SPP00045
Subject	Development Procedures Bylaw No. 3924, Development Approval Information Bylaw No. 3942, and Fees and Charges Amendment Bylaw No. 3960 for first three readings	

PURPOSE

To consider first, second, and third readings for the following bylaws:

- (1) Development Procedures Bylaw No. 3924, 2024, which proposes to establish procedures for the processing of land development applications, including amendments to the Official Community Plan and Zoning Bylaws, Permit applications, and Agricultural Land Commission applications.
- (2) Development Approval Information Bylaw No. 3942, 2024, which proposes to establish procedures for requiring development approval information as part of the land development application process, and
- (3) Fees and Charges Bylaw Amendment Bylaw No. 3960, 2024, which proposes to modify Development and Permitting fees by adding refunds for incomplete, inactive, and withdrawn applications and for when an early consideration application is denied.

BACKGROUND

A. February 13, 2024, Committee of the Whole Meeting

At the February 13, 2024, Committee of the Whole (COW) meeting, a resolution was carried that:

"the Committee of the Whole direct staff to bring forward to Council the Development Procedures Bylaw and the Development Approval Information Bylaw, substantially as drafted in Attachments 1 and 2 to the February 13, 2024, Community Planner's report, for consideration, along with options for public consultation and any associated administrative amendments to other bylaws."

B. Key Presentation Highlights

The presentation provided to COW underscored key elements of the proposed Development Procedures Bylaw and Development Approval Information Bylaw. These elements include:

- (1) *Business Plan Alignment:* The presentation identified goals within the 2023 Planning and Building Business Plan to enhance the efficiency of development application processes.
- (2) *Bylaw Overview:*
 - *Development Procedure Bylaw (DPB):* Details procedures for handling various development applications, offering decision-makers a spectrum of options within legal and procedural constraints, and providing discretionary decision-making guidelines.
 - *Development Approval Information (DAI) Bylaw:* Stems from the Official Community Plan (OCP) Development Approval Information Areas, codifying the need for professional studies and reports for certain application types and specifying report content requirements.

- (3) *Clarification of Requirements*: Both bylaws aim to clarify and standardize existing practices rather than introducing new substantial requirements, ensuring transparency and consistency for developers and applicants.
- (4) *Operational Consistency*: Bylaws consolidate and formalize current practices into a unified framework, aiding in maintaining consistency, particularly beneficial during staff transitions.
- (5) *Advance Clarity for Developers*: Bylaws provide clear expectations regarding application information, such as traffic impact assessments for significant developments, reducing potential surprises.
- (6) *Appeal Mechanism*: A provision for applicants to appeal to Council if they believe information demands are excessive or unnecessary.
- (7) *Early Consideration Application*: Introduces a provision for proponents of large or unusual projects to receive an "in principle" determination from Council early in the process, potentially saving time and resources if the project is deemed unsuitable.
- (8) *Agricultural Land Commission Applications*: Reflects changes in Agricultural Land Commission (ALC) regulations that place a greater responsibility on municipalities to gatekeep certain ALC applications, ensuring a structured approach to these applications in line with revised regulations.
- (9) *Development Notification Sign Requirements*: Implements a new requirement for on-site notification signs for development applications, providing consistency and clarity in communication for significant developments that require public hearings.

DISCUSSION

Following the February 13, 2024, COW meeting, administrative changes have been made to the following bylaws:

A. Draft Development Procedures Bylaw No. 3924

Other than very minor wording adjustments in the interests of clarity and consistency, changes made to the draft DPB thus far are as follows:

#	Original Wording	Revisions to Regulations
2.6.2 (a)	Upon receipt of an <i>Early Consideration</i> report, Council may: deny the <i>Application</i> , in which event the <i>Applicant</i> will be entitled to a refund in conjunction with a withdrawn application for any of the following which apply:	Upon receipt of an <i>Early Consideration</i> report, Council may: deny the <i>Application</i> , in which event the <i>Applicant</i> will be entitled to a refund for any of the following which apply:
3.1.4	Council may, by resolution, postpone consideration of an Application to amend an OCP Bylaw or Zoning Bylaw that is currently undergoing a comprehensive review.	Council may, by resolution, postpone consideration of an Application to amend an OCP Bylaw or Zoning Bylaw where that bylaw is currently undergoing a comprehensive review.
3.3.3	<i>New regulation added.</i>	Prior to authorizing or not authorizing an Application to proceed to the ALC under this section, Council may first refer the Application to the Municipality's Agricultural Advisory Committee for comment.

#	Original Wording	Revisions to Regulations
A.6	"Community Association" means a society, registered under the Societies Act, SBC 2015, c18. [Organizations representing specific neighbourhoods, advocating for community interests, and facilitating local government engagement.]	Removed from bylaw.

B. Draft Development Approval Information Bylaw No. 3942

Other than very minor wording adjustments in the interests of clarity and consistency, changes made to the draft DPB thus far are as follows:

#	Original Wording	Revisions to Regulations
1.4.2	<i>New regulation added.</i>	In instances where the Official Community Plan identifies conditions for which Development Approval Information may be required, this bylaw prescribes the requisite procedures, policies, and content requirements for such information.
1.4.3	1.4.2 The Director of Planning and Building, or their delegate, is authorized to require an Applicant to provide Development Approval Information on the anticipated impact of a proposed Application.	The following District Officials are authorized to require an Applicant to provide Development Approval Information on the anticipated impact of a proposed Application: (a) Director, Planning and Building; (b) Manager, Development Planning; (c) Director, Subdivision and Environmental Services; (d) Director, Engineering; or (e) Approving Officer.
ALL	The wording: 'The Director of Planning and Building, or their delegate' throughout the entire bylaw is now changed to:	District Official
2.1.1	Where Development Approval Information (DAI) is required, the Director of Planning and Building, or their delegate, will advise the Applicant of information requirements in writing by setting out the Terms of Reference (ToR).	Where Development Approval Information (DAI) is required, the District Official will advise the Applicant of information requirements, in writing, which may take the form of: (a) setting out Terms of Reference (ToR), or (b) requesting a Qualified Professional-developed TOR.
3.3.2(d)	<i>New regulation added.</i>	Prior to the independent review, the Qualified Professional to be engaged, must first be approved by the District Official.
3.4.2	Council must reconsider the decision at a regular meeting of Council held within a reasonable period of time after the date on which the Application for reconsideration was delivered to the Corporate Officer.	Council must reconsider the decision at a Public and Statutory Hearing meeting held within a reasonable period of time after the date on which the Application for reconsideration was delivered to the Corporate Officer.

#	Existing Regulations	Revisions to Regulations
3.4.3(a)	place the reconsideration of the decision on the agenda for a regular meeting of Council in accordance with section 3.4.2;	place the reconsideration of the decision on the agenda for a regular Public and Statutory Hearing meeting in accordance with section 3.4.2;
A.8	<i>New definition added.</i>	Definition added: "District Official" means an officer or employee of the District, as identified in section 1.4.3 of this bylaw [as per Section 486(1) of the LGA, whereby it states that a DAI bylaw can authorize an officer or employee to require development approval information.]
B.3	<i>New profession added.</i>	Professional Agrologist (P.Ag.)
B.5	<i>Deleted professions.</i>	Qualified Environmental Professional (QEP) Landscape Architect (BCSLA)
C.4(d)	<i>New section added.</i>	assess the development's contribution to urban heat island effects and propose cooling strategies, such as green roofs and increased tree cover;
C.7(c)	for rainwater and onsite drainage, provide options for the suitable collection, storage and disbursal of rainwater;	for stormwater and onsite drainage, provide options to ensure the quality and quantity of stormwater is similar to that which existed pre-development, and include a sediment and erosion control plan;
C.7(g)	analyze potential disruptions to wildlife corridors and habitats, offering measures to maintain ecological connectivity and biodiversity.	analyze potential disruptions to wildlife corridors and habitats, offering measures to maintain ecological connectivity and biodiversity, including measures to prevent the spread of invasive species, if present.
C.8(e)	include an assessment of emergency access routes to the development, ensuring they meet standards for fire service access and egress during emergencies.	Deleted.
C.11	Geotechnical and Hazardous Conditions Report	Geotechnical, Landslide , and Hazardous Conditions Report
C.11(a)	assess the geomorphology, topography, and soil composition of the land to be developed;	assess the geomorphology, topography, and soil composition of the land to be developed, including possible impacts to and from surrounding areas;
C.11(e)	New section added.	address landslide risk, including potential impacts that may originate beyond site boundaries; and,
C.19(d)	provide detailed onsite parking and loading requirements, show internal circulation routes, and analyze the proposed development's impact on public rights-of-way, which may involve <i>District</i> roads and the Provincial highway, focusing on traffic circulation, road vehicular capacity, intersection size and configuration, turning lanes, traffic lights, bike lanes, sidewalks, etc.;	provide detailed onsite parking and loading requirements, including identification of electric vehicle charging infrastructure , show internal circulation routes, and analyze the proposed development's impact on public rights-of-way, which may involve <i>District</i> roads and the Provincial highway, focusing on traffic circulation, road vehicular capacity, intersection size and configuration, turning lanes, traffic lights, bike lanes, sidewalks, etc.;

#	Existing Regulations	Revisions to Regulations
C.18	<i>New section added.</i>	Site Adaptive Planning Study – Urban-Rural Interface If the District Official requires information in the form of a report for developments within the Urban-Rural Interface Area, the report should:
		(a) outline the purpose of the Site Adaptive Planning Study, emphasizing the integration of environmental, hazard, and community values into the development process;
		(b) define the scope of the study, focusing on the specific aspects of site adaptive planning relevant to the proposed development;
		(c) provide a detailed analysis of the site's terrain, ecosystems, and cultural features, identifying key characteristics that will influence the form and placement of development;
		(d) assess the environmental values and hazard risks associated with the site, drawing on data from the OCP and additional studies or community consultations;
		(e) summarize findings from community consultations, highlighting values and concerns related to local character, environmental preservation, and hazard mitigation;
		(f) discuss how the proposed development will respect and incorporate these values, with specific attention to maintaining the integrity of the Urban-Rural Interface Area;
		(g) present the proposed development form and placement, clearly demonstrating how site adaptive planning principles have been applied to minimize environmental impact and respect community values;
		(h) detail any innovative design features or sustainable practices that will be employed to enhance the site's natural systems and cultural characteristics;
		(i) propose strategies to mitigate potential negative impacts on the environment and community, including measures to address identified hazards;
		(j) include plans for ongoing monitoring and adaptation of the development to ensure long-term resilience and alignment with community values;
		(k) conclude with a summary of how the Site Adaptive Planning Study has guided the development proposal, ensuring a balanced approach to development within the Urban-Rural Interface Area; and,
		(l) offer recommendations for further actions or studies needed to support the development's successful integration into the local context.

C. Fees and Charges Bylaw Amendment Bylaw No. 3960

Also presented alongside the draft DPB and draft DAI Bylaw are the following proposed amendments to the Fees and Charges Bylaw:

Regulation: Bylaw 3924	Proposed Fee and Charge	Proposed Refund	How fee was determined
2.1.6 (d)	Upon closure of an incomplete or inactive Application, the Applicant will be notified in writing, and any applicable fee refund will be paid to the Applicant in accordance with the Fees and Charges Bylaw.	Refund for incomplete or inactive application <i>30% refund</i>	The application refund was determined to represent the proportion of the process that would not be completed assuming that receipt of the incomplete information would allow preparation of a report and recommendation to the decision-maker.
2.2.4	Upon written request from an Applicant to withdraw an Application: (a) the Application will be closed; (b) written confirmation will be provided to the Applicant; and, (c) any applicable fee refund will be paid to the Applicant in accordance with the Fees and Charges Bylaw.	Refund for a withdrawn application prior to referrals <i>70% refund</i> Refund for a withdrawn application after referrals and prior to first consideration by a decision-maker <i>30% refund</i>	The application refund was determined to represent the proportion of the process that would not be completed depending on the stage at which the application was withdrawn.
2.6.2 (a)	Upon receipt of an <i>Early Consideration</i> report, <i>Council</i> may: (a) deny the <i>Application</i> , in which event the <i>Applicant</i> will be entitled to a refund for any of the following which apply: (i) 75% of the Large Project Surcharge; (ii) 100% of the Density Surcharge; (iii) 100% of Public Hearing Surcharge;	Refund for an early consideration application that has been denied: (i) 75% of the Large Project Surcharge; (ii) 100% of the Density Surcharge; (iii) 100% of Public Hearing Surcharge;	The application refund was determined to represent the components of the total application fee that would remain largely or completely unaddressed from having presented an early consideration application prior to receipt and scrutiny of detailed technical information.

Engagement Process Options

Considering the nature of the proposed bylaws and the limited scope for substantial change or input, the engagement process recommended is primarily informational. This approach aligns with the need to keep the community informed while acknowledging that the opportunities for meaningful public input are constrained by the specific context of the bylaw updates, whereby there are relatively few competing options to choose between or subjective choices to be made.

Informational Materials:

Should the bylaws be adopted by Council, supplementary information would be provided on the website. Information materials are developed by the principle of transparency and the desire to foster a well-informed community. The materials include:

- Handbook: This document will explain the DPB in plain language;
- Series of Development Application Guidebooks: Each guidebook will focus on different application procedures outlined in the bylaws, providing step-by-step guidance; and a
- Pamphlet: Offers a bird's-eye view of how development happens in North Cowichan.

If Council considers that further engagement is needed, the following option is proposed:

Connect North Cowichan

This online platform can serve as a central hub, offering a structured and accessible format for residents to understand the bylaws and their implications. The page can include:

- A comprehensive FAQ section addressing common questions and concerns that might arise from the bylaw updates.
- A submission form for residents to ask additional questions, ensuring that all community queries are addressed in a timely and transparent manner.

While it is possible to allow people to submit comments and input, it is difficult to provide meaningful and structured opportunity to do so in the context of these procedural bylaws that are more inward-looking than typical regulatory bylaws or policies.

OPTIONS

1. (Recommended Option) THAT Council:

- (1) Give first, second and third readings to Development Procedures Bylaw No. 3924, 2024;
- (2) Give first, second and third readings to Development Approval Information Bylaw No. 3942, 2024; and,
- (3) Give first, second and third readings to Fees and Charges Bylaw Amendment Bylaw No. 3960, 2024.

- This option includes informational materials that will be provided to the public in the form of a handbook [explains bylaw in plain language], a series of guidebooks [explains the different application procedures], and a pamphlet that provides a general overview of how development happens in North Cowichan.
2. This option allows Council to amend the bylaw(s) prior to third reading:
- (1) THAT Council give first and second readings to [Insert Bylaw Name and Number];
 - (2) THAT Council direct that [Insert Bylaw Name and Number] be amended as follows:
 - a. [Council to identify the section number and how it is to be changed]
 - b.
 - (3) THAT Council give third reading, as amended, to [Insert Bylaw Name and Number].
- This option can include any or all the following:
 - Options for public engagement at the “inform” level that include a *Bang the Table* page with opportunities for the public to ask additional questions.
 - Informational materials that will be provided to the public in the form of a handbook [explains bylaw in plain language], a series of guidebooks [explains the different application procedures], and a pamphlet that provides a general overview of how development happens in North Cowichan.

IMPLICATIONS

Implications	Concerns or Impacts to North Cowichan
Social	Enhanced understanding of how development happens in North Cowichan, including the procedural steps of different application types.
Environmental	No significant impact.
Financial	No significant impact.
Policy/Legislation	Statutory obligations are fulfilled under the <i>Local Government Act</i> : <ul style="list-style-type: none"> • DPB: Aligns with Section 460(1) • DAI: Aligns with Sections 485(1)(b) and 486
Strategic Priority	<ul style="list-style-type: none"> • 2023 Operational Strategic Plan • 2023 Planning & Building Department business plan
Communication	<p>(1) Following adoption, additional informational materials will be provided to the public as part of an overall development procedures package, including:</p> <ul style="list-style-type: none"> • a ‘<i>Development Procedures Bylaw Handbook</i>’ [explains bylaw using plain language]; • a series of guidebooks, ‘<i>Development in North Cowichan: A step-by-step guide for applicants</i>’ that explains the different application types [e.g., ALR Applications, etc.]; and, • a ‘<i>How Development Happens</i>’ pamphlet that provides a general overview of developmental procedures in North Cowichan. <p>(2) If Council determines that further public engagement is necessary, establishing a “Bang the Table” page is recommended. This platform</p>

	would present a curated list of Frequently Asked Questions, amalgamate queries previously raised by the Council at the last COW meeting, and provide a channel for the public to submit additional questions if the public was unavailable to submit their queries prior to or during the Council meeting.
Staffing implications	<ul style="list-style-type: none"> • Streamlines application processes and consistent application reviews, leading to more efficient use of staff time and resources. • Early consideration provisions may require initial upfront administration but will lead to more effective resource allocation in the long term.

RECOMMENDATION

THAT Council:

- (1) Give first, second and third readings to Development Procedures Bylaw No. 3924, 2024;
- (2) Give first, second and third readings to Development Approval Information Bylaw No. 3942, 2024;
and,
- (3) Give first, second and third readings to Fees and Charges Bylaw Amendment Bylaw No. 3960, 2024.

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Attachments:

- (1) Draft Development Procedures Bylaw No. 3924
- (2) Redline version of Bylaw No. 3924 showing proposed amendments
- (3) Draft Development Approval Information Bylaw No. 3942
- (4) Redline version of Bylaw No. 3942 showing proposed amendments
- (5) Draft Fees and Charges Bylaw Amendment Bylaw No. 3960
- (6) Draft 'Development Notification sign template'